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# St. Luke's v. Bd. Of Cty. Com'rs of Gooding Amicus Brief Dckt. 36467

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IN THE SUPREME COURT OF THE STATE OF IDAHO

ST. LUKE'S MAGIC VALLEY REGIONAL  
MEDICAL CENTER, LTD., an Idaho nonprofit  
corporation (regarding Megan Freeman)

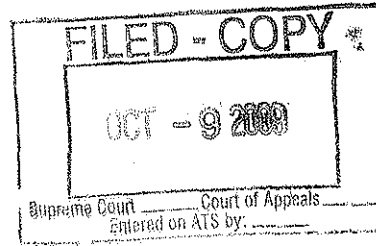
Petitioner-Appellants,

v.

BOARD OF COUNTY COMMISSIONERS OF  
GOODING COUNTY,

Respondent.

Supreme Court No. 36467



BRIEF OF IDAHO ASSOCIATION OF COUNTIES AS AMICUS CURIAE

Appeal from the District Court of the Fifth Judicial District for Gooding County  
The Honorable R. Barry Wood, District Judge, presiding

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## I. STATEMENT OF THE CASE

On March 24, 2009, the District Court issued a Decision and Order affirming in all respects the decision of the Board of County Commissioners of Gooding County (hereinafter “Board”), which denied medical indigency benefits to Megan Freeman, the applicant/patient. Saint Luke’s Magic Valley Medical Center (hereinafter “St. Luke’s”) filed a timely appeal from the District Court’s decision.

## II. ARGUMENT

The issue of first impression before the Idaho Supreme Court is whether a board of county commissioners may impute income to an applicant for medical indigency benefits when the applicant is not working but able to work to pay his/her living expenses, including necessary medical bills. Effectively, the Court is being asked to further interpret the definition of “resources” found in Idaho Code § 31-3502(17)<sup>1</sup> as well as “resources available” as used in the definition of “medically indigent” found in Idaho Code § 31-3502(1). Appellant herein does not challenge any of the Board’s findings *per se* but contests the Board’s application and interpretation of the medical indigency statutes to conclude that the Patient was not indigent.

### **A. Imputing income recognizes that applicants applying for medical indigency benefits are deemed to have an income, absent evidence of disability.**

In the instant case, the Board heard evidence that only the Patient’s husband, Robert Freeman, was employed, and that the Freemans did “not have income or resources available . . . sufficient to pay for necessary medical services.” *See* Idaho Code 31-3502(1) & Supp. 2009. Considering only the husband’s income, reduced by the couple’s expenses, the Board would have been compelled to reach a finding that the Freemans were medically indigent. However, there

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<sup>1</sup> Subsection (17) was renumbered as 31-3502(23) in Supp. 2009.

was additional evidence presented to the Board that the Patient was unemployed, having chosen to discontinue working to be a stay-at-home-mother, who, according to her prior work history and her testimony, was able to work at a full-time job earning at least minimum wage. In computing the Freemans' "resources" available to pay the necessary medical bills, the Board imputed income to the Patient which, when added to her husband's income was in excess of the couple's monthly expenses, leaving disposable income in an amount sufficient to pay the necessary medical bills over a five-year period. See Idaho Code § 31-3502(17) & Supp. 2009. As a result, the Board denied the application for medical indigency benefits, upon a finding that the Patient was not indigent.

The District Court affirmed the decision of the Board, relying in part on *Carpenter v. Twin Falls County*, 107 Idaho 575, 691 P.2d 1190 (1984) wherein the Supreme Court expressly authorized that "the Commissioners were free to consider all the facts, including that Mr. Carpenter was a healthy individual who had voluntarily quit his job." *Id.* at 585, 691 P.2d at 1200. In *Carpenter*, the hospital argued that the Patient was medically indigent because at the time of the hearing before the Commissioners, he had no income. *Id.* Here, the hospital argues that at the time of the application, the Patient was working as a stay-at-home- mom and earning no income; therefore, only the income of the Patient's husband is to be considered in determining indigency.

Like Carpenter, the Patient in this case was a healthy individual who had voluntarily ended her employment, in order to stay home with her children. The Court in *Carpenter* assumed that Carpenter was capable of earning the income he was receiving before he quit his job, but he was held nevertheless to be indigent. *Id.* Applying the same assumption-- that the Patient here was capable of earning at least the income she had received before-- as the Board

found, the outcome after including the Patient's imputed income was that the Patient was not indigent, as there was evidence of disposable income, which could be used to pay the medical bills within the statutory timeframe.

The District Court did not read *Carpenter* to require the Patient to seek employment in order to pay for her medical costs, as Appellant argues. (Appellant's Brief, p.11) Rather, *Carpenter* provided authorization for county boards of commissioners to impute income in determining resources available for payment of medical bills, albeit in dicta.<sup>2</sup>

---

<sup>2</sup> In *St. Alphonsus Reg'l Med. Ctr. v. Ada County*, (Case No. CVOC0105089D in the District Court of the Fourth Judicial District in Ada County) (attached as Exhibit A hereto), the District Court reviewing a denial of medical indigency benefits by the Ada County Board of Commissioners ruled:

The Court affirms Respondent's finding of fact that Petitioner was capable of maintaining a job for \$6.00 per hour. The evidence regarding Petitioner's age, education, and experience is commensurate with an individual who earns \$6.00 per hour. The Court further affirms Respondent's calculations as to the income, expenditures, and discretionary income. The Court subsequently affirms Respondent's conclusion that Mr. Whitten and his wife could retire the debt within the three (3) year limit.

The District Court also relied on *Jefferson County v. Eastern Idaho Reg'l Med. Ctr., (In the Matter of Ackerman)*, 127 Idaho 495, 903 P.2d 84 (1995), as further authorization for county boards to consider the Patient's "lifestyle choices." Although admittedly, the lifestyle choices in *Ackerman* related to discretionary expenses, lifestyle choices can logically and reasonably include voluntary unemployment, resulting in insufficient resources with which to pay necessary medical bills. Here, but for the Patient's discretionary decision not to find employment, the Patient's resources are insufficient to pay her medical bills such that she is applying to have county taxpayers bear the burden of payment. As stated in *Ackerman*, "the policy behind providing medical indigency benefits. . . is not necessarily to assist people who have the financial ability to pay were it not for... the lifestyle choices they make." *Id.* at 498, 903 P.2d at 87. *Ackerman* can be read to justify consideration of a patient's voluntary unemployment as a "lifestyle choice," as the District Court in this case did.

Therefore, county boards are entitled to consider a Patient's ability to work outside the home as part of its determination as to whether the Patient has "resources" to pay for necessary medical expenses. The Board in this case appropriately imputed income to the Patient and on the expense side, deducted additional childcare and transportation costs before reaching its determination that the Patient was not indigent. Further, to allow the imputation of income of a patient/applicant who can work but is unemployed by choice upholds the policy of this State "that each person, to the maximum extent possible, is responsible for his or her own medical care." See Idaho Code § 31-3501 & Supp. 2009.



**B. A Patient's ability to work constitutes an available resource.**

The Board before approving medical indigency benefits is tasked with determining whether an applicant “together with his or her spouse . . . does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services.” Idaho Code § 31-3502(1) & Supp. 2009. The statutory language, which was in existence at the time of *Carpenter, supra*, remained unchanged by the 1996 overhaul of the medical indigency statutes. The Court in *Carpenter* did not limit the Board’s consideration to the fact that the applicant, who was employed at the time of the application, had quit his job and had no income at the time of the hearing before the Board. The circumstances of Carpenter’s employment and earning capacity were deemed relevant to the Board’s inquiry. *Id.* In the instant case, the Patient’s circumstances and the status of her employment are equally relevant.

The Court then interpreted “available” to mean a “present ability to pay the medical expenses incurred within a reasonable time.” *Ackerman*, 127 Idaho at 497, 903 P.2d at 86. The definition of “resources,” first added in 1996, reiterates the holding of *Ackerman* and reads in part as follows: “Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services over a period of up to five (5) years.” Idaho Code § 31-3502(17) & Supp. 2009.

In affirming the Board, the District Court here interpreted “ability to pay” to encompass the Patient’s ability to earn income. The facts found by the Board were that the Patient could earn forty hours at minimum wage, which was not speculation, but a figure based on the income she had earned when she left her employment. The Board also found the Patient was not disabled. The Board’s findings, which included calculations, also accounted for child care costs and gas expenses that would be incurred if the Patient were to resume working under the same

conditions as when she previously was employed. Even without the finding including the tax refund as a resource, the Board found there was disposable cash of \$381.18 per month with which the Patient could pay the medical bills over fifty-four (54) months at the monthly rate of \$359.63. There is substantial evidence that the Patient was not medically indigent, and that finding should not be disturbed.

The standard of review of a court's interpretation of a statute and its application to the facts is one of free review, where the primary function of the reviewing Court is to determine and give effect to the legislative intent. *St. Luke's Reg'l Med. Ctr., Ltd. v. Bd. of County Comm'rs of Ada County*, 146 Idaho 753, 755, 203 P.3d 683, 687 (2009). The reasonableness of imputing income in the case of a healthy individual who is not working by choice, as urged by the Respondent, Gooding County, and the underlying policy that persons incurring medical bills are primarily responsible for payment therefor provide a strong argument for the Court to include as a "resource" monies that the Patient would be earning were she not voluntarily unemployed. In other words, the income is a "resource" available for the payment of medical expenses, if only the Patient secures employment.

## **VI. CONCLUSION**

The Board's indigency determination is supported by substantial evidence in the record. The Board's decision denying medical indigency benefits to the Patient is not in error and should

be affirmed by this Court.

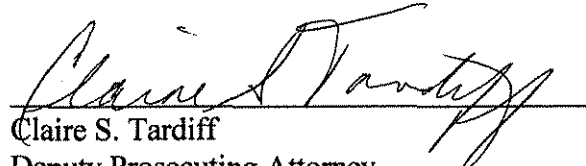
DATED this 9<sup>th</sup> day of October 2009.

IDAHO ASSOCIATION OF COUNSTIES

By: GREG H. BOWER

Ada County Prosecuting Attorney

By:

  
Claire S. Tardiff  
Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9<sup>th</sup> day of Oct 2009, I served a true and correct copy of the foregoing RESPONDENT'S BRIEF to the following person by the following method:

Steven B. Pitts, Esq.  
Law office of Steven Pitts, P.A.  
450 Falls Avenue, Suite 201  
P. O. Box 1901  
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Gooding County Prosecuting Attorney's Office  
624 Main Street  
Gooding, ID 83330

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☒ U.S. Mail  
☐ Certified Mail  
☐ Telecopy (FAX)



APR 13 2002

CIVIL DIVISION  
PROSECUTING ATTORNEY'S  
OFFICENO. 68 APR 23 2002  
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ADA COUNTY WELFARE

APR 18 2002

By J. DAVE NAVARRO  
*Chandra Fisher*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ST. ALPHONSUS REGIONAL MEDICAL  
CENTER,

Case No. CVOC0105089D

Petitioner,

MEMORANDUM DECISION RE:  
PETITION FOR REVIEW

vs.

ADA COUNTY,

Respondent.

## APPEARANCES

For The Petitioner: Phillip S. Oberrecht and Joshua S. Evett of the firm Hall, Farley,  
Oberrecht & BlantonFor The Respondent: Mary Cathleen MacGregor-Irby of the Ada County Prosecutor's  
Office

## PROCEEDINGS

This matter came before the Court on a Petition for Judicial Review and was  
taken under advisement as of the hearing held April 6, 2002.

## BACKGROUND

On January 12, 2001, Terry L. and Katrina L. Whitten, a married couple, filed  
for medical indigency on behalf of Terry L. Whitten. The Commission denied the  
application on March 7, 2001. On August 6, 2001, Petitioner St. Alphonsus Regional  
Medical Center (hereinafter "St. Alphonsus") sought review of an order of the Ada  
County Board of Commissioners (hereinafter "Board") denying Petitioner payment for

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ADA COUNTY WELFARE  
treatment of a patient under the medical indigency provisions of the Idaho Code. The

1 Court issued an Order Governing Judicial Review on August 30, 2001. Respondent  
2 lodged the agency record and transcript of proceedings on September 10, 2001.  
3

4 Petitioner filed its brief on appeal November 1, 2001. Respondent filed its brief  
5 on November 29, 2001. Petitioner replied on December 21, 2001. The parties  
6 submitted to the Court a stipulation vacating the hearing date scheduled for February  
7 25, 2002, and the hearing was reset to April 8, 2002.  
8

#### 9 APPLICABLE STATUTES

##### 10 A. Idaho Code § 31-3505G. Petition for judicial review of final determination.

11 If, after a hearing as provided in section 31-3505E, Idaho Code, the final  
12 determination of the board is to deny an application for financial  
13 assistance with necessary medical services, the applicant, or a third party  
14 making application on an applicant's behalf, may seek judicial review of  
15 the final determination of the board in the manner provided in section 31-  
16 1506, Idaho Code.

##### 17 B. Idaho Code § 31-3502(1). Definitions.

18 (1) "Medically indigent" means any person who is in need of necessary  
19 medical services and who, if an adult, together with his or her spouse, or  
20 whose parents or guardian if a minor, does not have income and other  
21 resources available to him from whatever source sufficient to pay for  
22 necessary medical services. Nothing in this definition shall prevent the  
23 board of county commissioners and administrator from requiring the  
24 applicant and obligated persons to reimburse the county and the  
25 catastrophic health care costs program, where appropriate, for all or a  
26 portion of their medical expenses, when investigation of their application  
pursuant to this chapter, determines their ability to do so.

##### 27 C. Idaho Code § 31-3502(7). Definitions.

28 "Obligated persons" mean those persons who are legally responsible for  
an applicant.

#### STANDARD

The Court reviews the denial of an application for medical indigency benefits

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1 under the Idaho Administrative Procedures Act. See I.C. § 31-3505G. ~~ADA COUNTY WELFARE~~  
2 *Sacred Heart Medical Ctr. v. Nez Pierce County*, 2001 WL 1274644 \*2 (2001). The  
3 Court will not substitute its judgment for that of the administrative agency on questions  
4 of fact, and will uphold findings of fact if supported by substantial and competent  
5 evidence. See *Shobe v. Ada County Bd. of Comm'rs*, 130 Idaho 580, 944 P.2d 715  
6 (1997).

7 The Court will affirm the agency decision unless the Court finds the agency's  
8 findings, inferences, conclusions, or decisions are:

- 9  
10 (a) in violation of constitutional or statutory provisions;  
11 (b) in excess of the statutory authority of the agency;  
12 (c) made upon unlawful procedure;  
13 (d) not supported by substantial evidence on the record as a whole; or  
14 (e) arbitrary, capricious, or an abuse of discretion.

15 If the agency action is not affirmed, it shall be set aside, in whole or in  
16 part, and remanded for further proceedings as necessary.

17 (4) Notwithstanding the provisions of subsections (2) and (3) of this section,  
18 agency action shall be affirmed unless substantial rights of the appellant have  
19 been prejudiced.

20 I.C. § 67-5279(3).

21 Petitioner urges the Court to employ a searching review when, in cases such as  
22 this, the agency is not a disinterested party. Petitioner contends that the  
23 Commissioners are ultimately responsible for paying a medical indigency claim, so the  
24 Court should more severely review its decision to deny such a claim. In support of its  
25 contention, Petitioner cites *Local 1494 of Int'l Assn. of Firefighters v. City of Coeur d'*  
26

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ADA COUNTY WELFARE

1 was not indigent.

2 Mrs. Whitten's income added to a potential minimum income of \$6.00 per hour  
3 for forty (40) hours per week for Mr. Whitten would total a gross household income of  
4 \$3,274.00 per month. The allowable expenses per month are \$1,669.00. That leaves  
5 a disposable income of \$1,605.00. The only unallowable expense is a storage unit fee  
6 of \$63.00 per month.

7 The county is obligated to determine whether, based upon their resources, the  
8 Whitten's could retire the debt within three (3) years. See I.C. § 31-3502(17). The  
9 county determined it would take 33 months at 1,534.20 a month to pay off the debt  
10 within three years. St. Alphonsus appealed the decision, and the matter went to a  
11 hearing before the Ada County Commissioners.

12 Neither Mr. Terry Whitten nor his wife was present at the hearing held May 16,  
13 2001. The Commission had two issues presented before it on appeal—whether Mr.  
14 Whitten and his wife qualified as medically indigent, and whether there was liability on  
15 the part of the backhoe owner as a resource for payment of the requested bills. The  
16 Commission found that there was no liability on the part of the backhoe owner that  
17 would defray the medical expenses the Whitten's incurred. Counsel for St. Alphonsus  
18 did not object to that finding. See transcript at page 10. The Commission next  
19 addressed the Whitten's' indigency,  
20

21 The Commission noted that Mr. Whitten suffered from no known medical  
22 disability, either mental or physical. The Commission recognized Mr. Whitten's  
23 contention that he had difficulty maintaining employment due to his criminal history and  
24 drug habit. However, the Commission determined that he could still find and maintain  
25  
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1 employment at a minimum wage level.

ADA COUNTY WELFARE

2 Petitioner contends that this determination stems from personal experience not  
3 based on facts in the record. The minutes of hearing relate Commissioner Kingsford's  
4 statement:

5 I would just commend that...while I understand it's more difficult for a  
6 convicted felon to find a job...Vaugh Killeen Bed and Breakfast [employs]  
7 a whole house full of 'em on a daily basis and I think if he was to scramble  
8 a bit, he could find employment in this economy....I think it's a choice.

8 Transcript at page 15.

9 Commissioner Ullman further stated:

10 The fact that he did work for Econolube for a couple of months says to me  
11 that people were willing to employ him and something didn't work out after  
12 he became employed so I think that...shows he is employable. I would  
13 have to agree with Grant that in this economy, somebody who wants to  
14 work can.

13 *Id.* at page 15.

14 The Court finds that the County Commissioner's decision to deny benefits was  
15 based on substantial and competent evidence. Although the Court may have been  
16 inclined to treat Petitioner more leniently due to the less than \$100 between the net  
17 income and the required payment of the debt, Respondent acted in compliance with the  
18 statute setting forth repayment in three (3) years. See I.C. § 31-3502(17).

19 The Court affirms Respondent's finding of fact that Petitioner was capable of  
20 maintaining a job for \$6.00 per hour. The evidence regarding Petitioner's age,  
21 education, and experience is commensurate with an individual who earns \$6.00 per  
22 hour. The Court further affirms Respondent's calculations as to the income,  
23 expenditures, and discretionary income. The Court subsequently affirms Respondent's  
24 conclusion that Mr. Whitten and his wife could retire the debt within the three (3) year  
25  
26  
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ADA COUNTY WELFARE

limit.

The Court notes that, in addition to his stint at Econolube, Mr. Whitten had held several odd jobs during the year prior to the application, including work as a certified flagger. There was no indication that Mr. Whitten was physically or mentally incapable of performing work. There was substantial and competent evidence that Mr. Whitten could work physically and mentally.

While Mr. Whitten had not maintained steady employment, there was no indication that he could not find and maintain a job based upon his drug use and criminal history. Mr. Whitten had been employed despite his drug problems and criminal history. To the extent that the Commissioners brought their personal insight and experience into the decision-making process, that insight did not render an otherwise legal conclusion invalid.

The Court AFFIRMS the decision of the Ada County Board of Commissioners; the Court need not consider the question of attorney fees raised by Petitioner.

#### CONCLUSION

Therefore, based on the foregoing, the Court AFFIRMS the decision of the Ada County Commissioner's finding that Mr. Whitten and his wife are not medically indigent. Respondent's counsel will prepare an order for the Court reflecting this Memorandum Decision.

DATED this 18 day of April 2002.



MICHAEL W. LAUGHLIN  
DISTRICT JUDGE

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CERTIFICATE OF MAILING

ADA COUNTY WELFARE

I hereby certify that on the 18 day of April 2002, I mailed (served) a true and

correct copy of the within instrument to:

TRIAL COURT ADMINISTRATION  
TWO (2) COPIES

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JOSHUA S EVETT  
HALL FARLEY OBERRECHT & BLANTON  
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BOISE ID 83701

CATHLEEN MACGREGOR-IRBY  
DEPUTY PROSECUTING ATTORNEY  
INTERDEPARTMENTAL MAIL

CHAIRMAN OF THE BOARD OF  
ADA COUNTY COMMISSIONERS  
INTERDEPARTMENTAL MAIL

J. DAVID NAVARRO  
Clerk of the District Court

By: *Yvonne Fisher*  
Deputy Clerk

